

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Pellet and Sanchez-Martinez

Patent No. 6,126,944

Issued: October 3, 2000

Confirmation No. 9684

For: BACULOVIRUS EXPRESSION VECTORS
AND RECOMBINANT ANTIGENS FOR
DETECTING TYPE-SPECIFIC
ANTIBODIES TO HERPES SIMPLEX
VIRUS

FILED VIA EFS

Examiner: Kenya A. McLaughlin

Art Unit: 1623

Attorney Reference No. 6395-87124-02

FILED VIA ELECTRONIC FILING SYSTEM
COMMISSIONER FOR PATENTS

DECLARATION OF DONALD PRATHER

1. I, Donald Prather, am employed by the Government of the United States of America at the Centers for Disease Control and Prevention (CDC). I have a Ph.D. in Genetics from Harvard University, and I received my J.D. from Georgia State University College of Law in January 2012.

2. In 2005, I became a post-doctoral fellow in the Malaria Branch at CDC. In August 2007, I began working as a Technology Licensing and Marketing Specialist in the CDC Technology Transfer Office (TTO). My primary duties at that time were licensing and marketing of inventions made by CDC scientists. I have the same duties and general responsibilities today.

3. I received an application to license U.S. Patent No. 6,126,944 ("the '944 patent") on or about September 3, 2009. A final license agreement was executed with that applicant in March 2010. During the period between receipt of the initial application and the execution of the

license agreement, I reviewed the Inteum database and the docket entries in that database on multiple occasions as I negotiated and prepared the license agreement. I noted no database entry indicating that the patent had expired. In particular, I did not see a Notice of Expiration dated November 3, 2008.

4. If I had seen a Notice of Expiration for the '944 patent I would have taken immediate steps to bring this matter to the attention of Mr. Fikovsky, who was the assigned CDC Patent Advisor for the '944 patent, and others at TTO for the purpose of reviving the patent in view of the license agreement that was being negotiated and three previous license agreements that were already in effect for this patent.

5. All statements made herein and of my own knowledge are true and all statements made on information are believed to be true; and further, these statements were made with the knowledge that willful false statements and like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements made may jeopardize the validity of the application or any patent issuing thereon.

3/26/12
Date

Donald M. Prather
Donald Prather